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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/015,584	12/17/2001	Lawrence B. Ziesel	07738.0158	5909

7590 07/21/2003

Finnegan, Henderson, Farabow,  
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1300 I Street, N.W.  
Washington, DC 20005-3315

EXAMINER

BUSHEY, CHARLES S

ART UNIT	PAPER NUMBER
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1724

DATE MAILED: 07/21/2003

4

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/015,584

Applicant(s)

ZIESEL, LAWRENCE B.

Examiner

Scott Bushey

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) 25-30 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-24 is/are allowed.
- 6) ☒ Claim(s) 1-3, 10-12 and 31 is/are rejected.
- 7) ☒ Claim(s) 4-9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of Group I, claims 1-12 in Paper No. 3 is acknowledged.

Applicant's traversal of the restriction requirement between Group I, claims 1-12, and Group II, claims 13-24, and 31, is acknowledged and has been found to be persuasive. Accordingly, each of claims 1-24, and 31 have been examined on the merits herein.

With respect to the restriction requirement directed to the invention of Group III, claims 25-30, because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election pertaining to non-elected Group III has been treated as an election without traverse (MPEP § 818.03(a)). Accordingly, claims 25-30 have been withdrawn from further consideration.

### ***Specification***

2. The disclosure is objected to because of the following informalities: 1) page 7, line 10, "problem" should apparently be replaced by --probe--; 2) page 9, line 9, reference numeral "184" should be corrected with respect to its association with the pressure relief member, since the numeral has been used elsewhere in the specification and drawings to indicate the "cold plate"; 3) "outlet member 36" should be replaced by --outlet member 54--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3, 11, 12, and 31 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Brusa (The Figure).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brusa taken together with Berson.

Brusa (The Figure) substantially discloses applicant's invention as recited by instant claim 10, except for the baffle being arranged to atomize the incoming liquid stream.

Berson (7a in Fig. 1) discloses a baffle (7a) within a gas-liquid contact tank, the baffle being arranged to splatter and thus atomize the incoming liquid stream to optimize the contact between the gas and liquid phases. It would have been obvious for an artisan at the time of the invention, to position the baffle within the carbonator of Brusa above the water level, in view of Berson, since such would provide a splattering of the water, thereby enhancing contact of the phases and thus reducing the required residence time within the contact chamber and also the overall liquid holding capacity of the contact chamber, since a large percentage of the gas-liquid contact would be performed immediately upon entry of the liquid within the chamber.

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***Allowable Subject Matter***

7. Claims 13-24 are allowed. The prior art of record fails to disclose or suggest providing the carbonation tank having a baffle therein between the first and second ends of the tank, with the water inlet in one end of the tank and the carbon dioxide inlet in the other end of the tank.

8. Claims 4-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is (703) 308-3581. The examiner can normally be reached on Monday-Thursday 6:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Blaine R. Copenheaver can be reached on (703) 308-1261. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

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Scott Bushey  
Primary Examiner  
Art Unit 1724

csb  
July 15, 2003

A handwritten signature in black ink, appearing to read 'CSB' followed by a stylized flourish.

7-15-03